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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
AKRON

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE)	CASE NO. 93-50634
)	[Previous Case No. 93-40107],
MARGARET M. STYCHNO,)	Transferred From Youngstown, Ohio]
)	
DEBTOR.)	CHAPTER 7
)	
)	JUDGE MARILYN SHEA-STONUM

**ORDER GRANTING MOTION TO WAIVE FILING FEE
AND DENYING MOTION TO REOPEN**

On December 30, 2004, Margaret M. Stychno ("Debtor"), by and through her counsel Kenneth Shaw, filed an unsigned and unserved motion to recuse [docket #275] accompanied by the Affidavits of Connie Cera, Kenneth Shaw and the Debtor (the "Motion to Recuse"). In addition, the Debtor filed an unsigned motion to reopen her bankruptcy case (which was closed on July 30, 2004) [docket #274] (the "Debtor's Motion to Reopen"). The Court issued several notices of deficiency given the unsigned nature of the pleadings and the Debtor's failure to pay the filing fee for a motion to reopen a case [docket ##277-282]. On January 7, 2005, the Debtor filed , as one document, a signed copy of the Motion to Recuse, signed Affidavits in support of the Motion to Recuse, a signed copy of the Debtor's Motion to Reopen and a Motion to Waive the Filing Fee [docket #283].

This Order deals first with the Motion to Waive Fee and then with the Debtor's Motion to Reopen. The Debtor requests that this Court waive the filing fee for reopening her bankruptcy case pursuant to the "provisions of rule 5010 which permits waiver of filing fees in the instance of reopening for the purpose of commencing an adversary hearing for determination of dischargeability of a particular obligation." Fed. R. Bankr. P. 5010 contains no such provision. However, 28 U.S.C. § 1930(b) and the appendix thereto at ¶ 11 allow waiver of the fee for reopening a bankruptcy case for actions related to a debtor's discharge. Although it seems unlikely that the Debtor actually has a dischargeability action to bring in this case, the Court will give the Debtor the benefit of the doubt on this issue with respect to the Motion to Waive Fee. Therefore, the Court finds the Debtor's Motion to Waive Fee to be well taken.

The Debtor's Motion to Reopen requests, in its single paragraph, that the Court reopen her case pursuant to the provisions of 11 U.S.C. § 350(b) and Fed. R. Bankr. P. 5010 because:

debtor was not given notice of case being closed and further proceedings were available and an adversary proceeding was being prepared to determine dischargeability of a particular debt relative to 11 U.S.C. § 542 and 552 as well as a rule 60(b) motion regarding prejudicial mishandling of debtor matters prior to final distribution of debtors assets...

To date the Debtor has not submitted a memorandum in support citing appropriate legal authority as required by Local Rule of Bankruptcy Procedure 9013-1. The Debtor's failure to comply with Local Rule 9013-1 is sufficient grounds for this Court to deny the Debtor's

Motion to Reopen. Notwithstanding this failure, the Court will address the substance of the Motion to Reopen.

Section 350(b) provides that “a case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.” The Debtor’s Motion to Reopen does not state “cause” for reopening the case. The Debtor’s one paragraph motion makes only a veiled reference to further proceedings and to a potential dischargeability action. In a case that (1) was initially filed in 1993, (2) has involved many very contested and fully litigated matters, (3) involved several adversary proceedings regarding the dischargeability of particular debts (the rulings in which were ultimately determined on appeal) and (4) resulted in creditors receiving 100 cents on the dollar, vague statements, unsupported by law or fact, are not a sufficient basis for the Court to find cause pursuant to Bankruptcy Code § 350(b).

In addition, the Debtor suggests that she was not given notice that her case was being closed. Neither the Bankruptcy Code nor the Bankruptcy Rules require that a debtor be provided with notice of the closing of the debtor’s case, and generally, official notice is not given to any party. *See* 11 U.S.C. § 350(a) (“After an estate is fully administered and the court has discharged the trustee, the court shall close the case.”); Fed. R. Bankr. P. 5009 (“[i]f in a chapter 7 ... the trustee has filed a final report and final account and has certified that the estate has been fully administered, and if within 30 days no objection has been filed by ... a party in interest, there shall be a presumption that the estate has been fully

administered.”); Collier on Bankruptcy ¶ 5009.01 However, Fed. R. Bankr. P. 2002(f)(8) does require that the debtor be provided with notice of the filing of the final report.

The trustee in the Debtor’s bankruptcy case filed his final report on July 17, 2002 [docket # 221]. On July 29, 2002, the Clerk of Court gave the Debtor notice by mail of a summary of the trustee’s final report as required by Fed. R. Bankr. P. 2002(f)(8) [docket # 224]. The Debtor filed an objection the trustee’s final report¹ [docket # 225]. On January 15, 2003, the trustee filed a report of distribution [docket # 243]. The Court entered an Order of Final Allowance on February 3, 2003 [docket # 245].

The Debtor appealed from the Order of Final Allowance [docket # 249]. The Debtor’s appeal was dismissed on May 12, 2003 [docket # 258]. On July 3, 2003, the trustee filed a Motion to Distribute Returned Funds (the “Motion to Distribute”) because, *inter alia*, the Debtor had not deposited the \$11,000 check sent to her by the trustee on account of the administrative expense claim the Court had awarded to the Debtor [docket # 260]. The Debtor filed an objection to the Motion to Distribute [docket # 262]. On August 13, 2003, the parties reported to the Court that the Motion to Distribute was resolved by agreement of the parties. Thereafter, the Debtor directed her counsel not to sign the proposed agreed order

¹ The Court treated the Debtor’s objection to the final report as an objection to the claim of Second National Bank. The Court held a hearing on the Debtor’s objection on November 7, 2002. At the hearing, the Court ordered that the Debtor’s objection would be overruled unless on or before November 18, 2002, the Debtor filed proposed conclusions of law which supported the Debtor’s legal argument regarding the application of the Rooker-Feldman doctrine. On November 18, 2002, the Debtor filed a motion for a twenty-one day continuance. The Debtor never filed any proposed conclusions of law on this issue.

resolving the Motion to Distribute. Therefore, the Court entered an Order with respect to the Motion to Distribute [docket # 266]. The Debtor requested a stay of the Order regarding the Motion to Distribute which the Court denied [docket #267]. The Debtor did not appeal from the Order with respect to the Motion to Distribute.

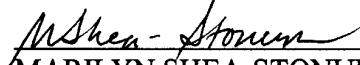
On March 5, 2004 the trustee filed an amended report of distribution [docket #271]. The amended report of distribution shows that the Debtor did not deposit the second check sent to her and pursuant to the Court's Order [docket # 266], the trustee distributed the funds, pro rata, to unsecured creditors [docket # 271]. The final account showing a zero balance in the trustee's account was filed on July 28, 2004 and the final decree was entered and the Debtor's case was closed on July 30, 2004 [docket ## 272 and 273]. The record in the Debtor's case plainly shows that the Debtor received the appropriate notice required under the Bankruptcy Code and Rules, and that the Debtor's case was fully administered and properly closed.

Finally, the Debtor suggests that her case should be reopened to allow her to bring a 60(b) motion "regarding prejudicial mishandling of debtor matters prior to final distribution of debtors assets." The distribution of the Debtor's assets was a contested matter which was litigated and resolved in this Court prior to the closing of the case. *See, e.g., Order Granting Application for Compensation in Part for Guy C. Fustine, and Ordering Trustee to Pay Administrative Expenses dated December 3, 2002 [docket #238]; Order of Final Allowance dated February 3, 2003 [docket #245]; Order Regarding Disbursement of Returned Funds dated August 29, 2003 [docket # 266] and Order Regarding Disbursement of Returned*

Funds dated September 2, 2003 [docket #267]. The Debtor took an appeal from the February 3, 2003 Order which was dismissed by Order of the Bankruptcy Appellate Panel of the Sixth Circuit dated May 12, 2003. [docket #258]. The Debtor has had a full and fair opportunity to litigate all matters related to her bankruptcy. Again, the allegations in the Debtor's Motion to Reopen lack specificity and are unsupported by law or fact.

For the reasons stated above, the Court finds that the Debtor has failed to establish cause and the Debtor's Motion to Reopen is not well taken. THEREFORE, the Debtor's Motion to Reopen is denied.

IT IS SO ORDERED.


MARILYN SHEA-STONUM
Bankruptcy Judge

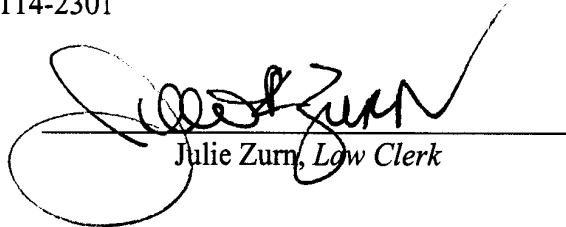
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 8th day of FEBRUARY, 2005, the foregoing "Order Granting Motion to Waive Filing Fee and Denying Motion to Reopen" was sent via regular U.S. Mail to the following:

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